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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

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CARL MACK COURTNEY JR.,  
  
Plaintiff,  
  
v.  
  
RYAN ARBON et al.,  
  
Defendants.

**MEMORANDUM DECISION &  
ORDER GRANTING MOTION  
FOR RELIEF FROM JUDGMENT**

Case No. 1:20-CV-118 TC  
  
District Judge Tena Campbell

On September 14, 2020, Plaintiff was ordered to within thirty days file an initial partial filing fee (IPFF) of \$25.93 and consent for collection of the remaining fee in increments from Plaintiff's inmate account. (ECF No. 3.) After Plaintiff did not pay his IPFF by November 18, 2020, the Court ordered him to show cause why his case should not be dismissed. (ECF No. 12.) Finally, on February 1, 2021, Plaintiff still had not paid his IPFF so the Court dismissed this case. (ECF No. 14.)

On May 4, 2021, Plaintiff filed a motion to vacate, (ECF No. 16), the dismissal order, (ECF No. 14), and allow the filing of an amended complaint, (ECF No. 16-1). He has also paid his IPFF. (ECF No. 18.)

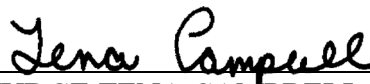
The Court construes Plaintiff's motion as one for relief from judgment under Fed. R. Civ. P. 60(b)(1). Federal Rule of Civil Procedure 60(b)(1) states: "On motion and just terms, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons: . . . mistake, inadvertence, surprise, or excusable neglect . . . ." Fed. R. Civ. P. 60(b)(1).

On the basis of excusable neglect, **IT IS ORDERED** that:

- (1) Plaintiff's post-judgment motion is **GRANTED**. (ECF No. 16.)
- (2) The dismissal order and judgment are **VACATED**. (ECF No. 14-15.)
- (3) Plaintiff's amended complaint shall be filed. (ECF No. 16-1.)

DATED this 6th day of July, 2021.

BY THE COURT:

  
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JUDGE TENA CAMPBELL  
United States District Court